

103D CONGRESS
1ST SESSION

S. 1401

To provide for the adjudication of certain claims against Iraq, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 30), 1993

Mr. PELL (by request) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide for the adjudication of certain claims against Iraq, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Iraq Claims Act of
5 1993”.

6 **SEC. 2. ADJUDICATION OF CLAIMS.**

7 (a) The Foreign Claims Settlement Commission of
8 the United States (“the Commission”) is authorized to re-
9 ceive and determine the validity and amounts of any
10 claims referred to it by the Secretary of State with respect

1 to which the United States has received lump-sum pay-
2 ments from the United Nations Compensation Commis-
3 sion (“the UNCC”).

4 (b) The Commission is further authorized to receive
5 and determine the validity and amounts of any claims by
6 nationals of the United States against Iraq that are deter-
7 mined by the Secretary of State to be outside the jurisdic-
8 tion of the UNCC.

9 (c) In deciding such claims, the Commission shall
10 apply, in the following order—

11 (1) relevant decisions of the United Nations Se-
12 curity Council and the UNCC (in the case of claims
13 under subsection (a));

14 (2) applicable substantive law, including inter-
15 national law; and

16 (3) applicable principles of justice and equity.

17 (d) The Commission shall, to the extent practical, de-
18 cide all pending non-commercial claims of members of the
19 armed forces and other individuals arising out of Iraq’s
20 invasion and occupation of Kuwait before deciding any
21 other claim.

22 (e) Except as otherwise provided in this Act, the pro-
23 visions of titles I and VII of the International Claims Set-
24 tlement Act of 1949 (22 U.S.C. 1621 et seq.) shall apply
25 with respect to claims under this Act. Any reference in

1 such provisions to “this title” shall be deemed to refer to
2 those provisions and to this Act. Any reference in such
3 provisions to “section 703” shall be deemed to refer to
4 section 2(b) of this Act.

5 (f) In determining the amount of any claim adju-
6 dicated under this Act, the Commission shall deduct all
7 amounts the claimant has received from any source on ac-
8 count of the same loss or losses.

9 **SEC. 3. CLAIMS FUNDS.**

10 (a) The Secretary of the Treasury is authorized to
11 establish in the Treasury of the United States one or more
12 funds (“the UNCC Claims Funds”) for payment of claims
13 under section 2(a). The Secretary of the Treasury shall
14 cover into the UNCC Claims Funds such amounts as are
15 transferred to him by the Secretary of State pursuant to
16 subsection (e).

17 (b) The Secretary of the Treasury is further author-
18 ized to establish in the Treasury of the United States a
19 fund (“the Iraq Claims Fund”) for payment of claims
20 under section 2(b). The Secretary of the Treasury shall
21 cover into the Iraq Claims Fund such amounts as are allo-
22 cated by the President from assets of the Government of
23 Iraq liquidated pursuant to subsection (d).

24 (c) In accordance with section 8(g) of the Inter-
25 national Claims Settlement Act of 1949 (22 U.S.C.

1 1627(g)), the funds established pursuant to sections 3(a)
2 and 3(b) shall be invested in public debt securities and
3 shall bear interest at rates determined by the Secretary
4 of the Treasury taking into consideration the current aver-
5 age market yield on outstanding marketable obligations of
6 the United States of comparable maturity.

7 (d) The President is authorized to vest and liquidate
8 as much of the assets of the Government of Iraq in the
9 United States that have been blocked pursuant to the
10 International Emergency Economic Powers Act (50
11 U.S.C. 1701 et seq.) as may be necessary to satisfy claims
12 under section 2(b), as well as claims of the United States
13 Government against Iraq which are determined by the
14 Secretary of State to be outside the jurisdiction of the
15 UNCC. The President shall allocate these funds in the
16 manner he determines appropriate between the Iraq
17 Claims Fund and such other accounts as are appropriate
18 for the payment of claims of the United States Govern-
19 ment.

20 (e) The Secretary of State shall allocate funds re-
21 ceived by the United States from the UNCC in the manner
22 he determines appropriate between the UNCC Claims
23 Funds and funds established under the authority of sec-
24 tion 2668a of title 22 of the United States Code.

1 **SEC. 4. PROGRAM ADMINISTRATION SELF-SUFFICIENCY.**

2 Notwithstanding any other provision of law, the Sec-
3 retary of the Treasury shall deduct an amount equal to
4 1½ per centum from any amount covered into the claims
5 funds established under section 3, and from any amounts
6 the Secretary of State receives from the UNCC which are
7 not covered into a claims fund established under section
8 3 and not in payment of a claim of the United States Gov-
9 ernment, to reimburse the agencies of the Government of
10 the United States for their expenses in administering the
11 Iraq claims program and this Act. The Secretary of the
12 Treasury, in consultation with the Chairman of the For-
13 eign Claims Settlement Commission and the Secretary of
14 State, shall determine the proportional distribution of the
15 reimbursement set-aside, and shall advance for credit or
16 reimburse a department, agency, or instrumentality of the
17 Federal Government for its respective expenses in admin-
18 istering the Iraq claims program and this Act. Amounts
19 received by such department, agency or instrumentality
20 shall be credited or reimbursed to the appropriation ac-
21 count then current and shall remain available for expendi-
22 ture without fiscal year limitation.

23 **SEC. 5. PAYMENTS.**

24 (a) The Commission shall certify to the Secretary of
25 the Treasury each award made pursuant to section 2. The
26 Secretary of the Treasury shall make payment in the fol-

1 lowing order of priority out of the appropriate fund pro-
2 vided for in section 3—

3 (1) payment in the amount of \$10,000 or the
4 principal amount of the award, whichever is less;

5 (2) when the Secretary of the Treasury has de-
6 termined that funds are available to pay each claim
7 having priority under section 2(d) an additional
8 \$90,000, payment of a further \$90,000 of the prin-
9 cipal of the awards that have priority under section
10 2(d);

11 (3) payments from time to time in ratable pro-
12 portions on account of the unpaid balance of the
13 principal amounts of all awards according to the
14 proportions which the unpaid balance of such
15 awards bear to the total amount in the appropriate
16 claims fund that is available for distribution at the
17 time such payments are made;

18 (4) after payment has been made of the prin-
19 cipal amounts of all such awards, pro rata payments
20 on account of accrued interest on such awards as
21 bear interest; and

22 (5) after payment has been made in full of all
23 the awards payable out of any of the claims funds
24 established by section 3, any funds remaining in that
25 claims fund shall be transferred to the other claims

1 fund created by that section, except any funds re-
2 ceived by the United States from the UNCC shall be
3 so transferred to the extent not inconsistent with
4 UNCC requirements.

5 (b) Payment of any award made pursuant to this Act
6 shall not extinguish any unsatisfied claim, or be construed
7 to have divested any claimant, or the United States on
8 his or her behalf, of any rights against the Government
9 of Iraq with respect to any unsatisfied claim.

10 **SEC. 6. RECORDS.**

11 (a) The Secretary of State and the Secretary of the
12 Treasury may transfer or otherwise make available to the
13 Commission such records and documents relating to
14 claims authorized by this Act as may be required by the
15 Commission in carrying out its functions under this Act.

16 (b) Notwithstanding section 552 of title 5 of the
17 United States Code (commonly referred to as the Freedom
18 of Information Act), records pertaining to claims before
19 the Commission and the UNCC may not be disclosed to
20 the general public, except that—

21 (1) decisions of the UNCC and filings of the
22 United States on its own behalf of the UNCC shall
23 be made available to the public, unless the Secretary
24 of State determines that public disclosure would be
25 prejudicial to the interests of the United States or

1 United States claimants, or that public disclosure
2 would be inconsistent with the procedures of the
3 UNCC;

4 (2) with respect to records of the Department
5 of State, the Secretary of State may determine on
6 a case-by-case basis to make such information avail-
7 able when in the judgment of the Secretary the in-
8 terests of justice so require;

9 (3) with respect to records of the Department
10 of the Treasury, the Secretary of the Treasury may
11 determine on a case-by-case basis to make such in-
12 formation available when in the judgment of the
13 Secretary the interests of justice so require; and

14 (4) with respect to records of the Commission,
15 the Chairman of the Commission may determine on
16 a case-by-case basis to make such information avail-
17 able when in the judgment of the Chairman the in-
18 terests of justice so require. Before releasing records
19 that originated with another Executive Branch agen-
20 cy (as defined in section 105 of title 5 of the United
21 States Code), the Commission shall obtain the con-
22 currence of the originating agency.

23 **SEC. 7. SEVERABILITY.**

24 If any provision of this Act or the application thereof
25 to any person or circumstances shall be held invalid, the

1 remainder of the Act or the application of such provision
2 to other persons or circumstances shall not be affected.

3 **SEC. 8. STATUTE OF LIMITATIONS; DISPOSITION OF UN-**
4 **PAID CERTIFIED CLAIMS.**

5 (a) Nine years after the Secretary of the Treasury
6 last covers funds into the UNCC Claims Fund(s) or the
7 Iraq Claims Fund established under section 3 of this Act,
8 the Secretary of the Treasury shall publish a notice in the
9 Federal Register detailing this statute of limitations and
10 identifying the claim numbers and awardee names of un-
11 paid certified claims. Any demand or claim for payment
12 on account of an award certified under the Iraq claims
13 program shall be barred one year after the publication
14 date of the notice required by this subsection.

15 (b) Two years after the publication date of the notice
16 required by subsection (a), any unpaid certified claim
17 amount and any remaining balance in the UNCC Claims
18 Fund(s) or the Iraq Claims Fund established under sec-
19 tion 3 of this Act shall be deposited to the miscellaneous
20 receipts of the Treasury.

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